

## IN THE SENATE OF THE UNITED STATES.

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JUNE 16, 1860.—Ordered to be printed.

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Mr. MASON submitted the following

## REPORT.

*The Committee on Foreign Affairs, to whom has been referred "the memorial of William T. Kendall, of Baltimore, asking indemnity for property seized and confiscated by the alleged authority of the British government, and for the value of guano claimed under the act of August 18, 1856," have had the same under consideration, and report:*

The memorialist states that, in the month of November, 1858, he discovered upon the island of Key Verd, in latitude 22° 15' N., longitude 75° 10' W. from Greenwich, a deposit of guano. He alleges that the island is not within "the lawful jurisdiction of any other government." He contends that, in consequence of his claim and occupancy, it should be considered as appertaining to the United States, and that he is entitled to indemnity for alleged wrong done him by the British authorities, in dispossessing him of the occupancy of the guano deposit upon the island, as well as to the protection of the United States, according to the provisions of the act of August 18, 1856.

The first section of the act of 18th August, 1856, under which the petitioner claims, refers it to the discretion of the President to determine whether an island or key alleged to have been discovered by a citizen of the United States shall be considered as appertaining to the United States.

It prescribes further the steps to be taken by the alleged discoverer and *inter alia*, "that satisfactory evidence be furnished to the State Department that such island, &c., is not in the possession or occupation of any other government," &c.

Thus the President is to determine upon the proofs before him whether such discovery is of an island, &c., not pertaining to any other power.

In the case set out in the petition it would appear that the petitioner assumed that the island called Key Verd did not pertain to any other power claimed to have taken possession thereof, and, as stated in the petition, took from it one or more cargoes of guano before communicating his alleged discovery to the Department of State.

The committee referred the petition to that department for information, and received in reply a communication from the Secretary, with the documents accompanying this report, from which it would appear that this island was claimed by the government of Great Britain as appertaining to their possessions in the Bahama group; that satisfactory evidence to show otherwise had not been presented at the department, and therefore the Secretary, by his letter of the 19th March, 1860, informed the attorney of the petitioner that "the President does not feel authorized under the circumstances to take any measure by which the said island should be considered as appertaining to the United States."

The committee, from the documents before them, see no reason to review the decision of the President.

As to the claim for indemnity set forth in the petition, whatever it may be, is against the British government alone.

The committee return with this report the communication and documents from the Department of State, and ask to be discharged from the consideration of the memorial.

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*To the honorable Senate and House of Representatives of the United States:*

The memorial of W. T. Kendall, a citizen of Baltimore and State of Maryland, respectfully sheweth, that with a view to receive the benefits and protection provided for in the act of Congress passed August 18, 1856, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," your memorialist fitted out and equipped the brig *Fidelia*, which sailed from the port of Baltimore, under the command of Captain Richard Daulby, in or about the month of November, 1858; that said Captain Richard Daulby, while cruising in said vessel on account of, and for the benefit of, your memorialist, about the 20th day of November, 1858, discovered a deposit of guano on a small island called Key Verd; that said island was at the time unoccupied and uninhabited, and beyond the maritime jurisdiction of any government or nation; that said island was not only uninhabited, but unfit for permanent occupation, by reason of its being without water or vegetation for the sustenance of human life, and without a harbor for vessels; that at the time of discovering said deposit of guano the same was concealed by an overgrowth of prickly pears, which being removed by Captain Daulby in part, disclosed the said deposit of guano. Your memorialist further sheweth, that he took possession of said island, by his agents, in the name of the United States, and raised the American flag on a small building erected thereon by the men in his employment; that after the loss of said brig *Fidelia*, by shipwreck, on said island, and at great expense and loss of money, your memorialist equipped and sent out from Baltimore another vessel, called the *Delta*, under the command of said Captain R. Daulby, with a complement of

laborers, to excavate and ship the deposit of guano for the port of Baltimore, and the said vessel arrived at Baltimore on or about the 10th day of June, 1858, freighted with guano from said island, which was publicly sold by your memorialist, for and on his own account; that said vessel returned to said island, when Captain R. Daulby found the same in possession of an armed force, headed by a certain Farrington, the son-in-law or relative of the British governor of the Bahama Islands; that it was then ascertained by Captain R. Daulby that during his absence an armed schooner had landed a strong force of armed men on said island, under the orders of said Farrington, who proceeded to subjugate said island, claiming the same by virtue of an alleged lease thereof from the governor of the Bahamas; that in the execution of this plan of conquest, the said Farrington and his men coerced the men employed by your memorialist, and left in charge of said island, to work for him, the said Farrington, in digging out guano on said island; that the said Farrington and his men lowered the American flag which had been placed on said island, and took into their own use and possession all the implements, provisions, and personal effects belonging to your memorialist on said island; that on the arrival of said brig Delta at said island, the said Farrington refused to allow her to be loaded with guano, unless the said Captain R. Daulby would receive on board a load of guano as the property of, and on account of, the said Farrington, and would execute to him a bill of lading for the same, to be consigned to F. T. Montell, a commission merchant in Baltimore; that said Captain R. Daulby, finding the island in possession of a superior force, and unable to load his vessel with guano therefrom on account of your memorialist, as he was instructed to do, and not knowing, under the circumstances, what else to do, did then and there, but without the authority of your memorialist, receive said guano on board of said vessel, and did execute therefor a bill of lading to said Farrington, as and for his own account, and as his own property; that upon the said guano arriving in said vessel at the port of Baltimore, your memorialist caused the same to be replevied in the superior court of Baltimore city, where the said suit is still pending undecided. Your petitioner sheweth that he has suffered great damage in the loss, not only of his property sent to said island and in the labor of his men, but in the value of the guano on said island, and which he is prepared to show is of the value of at least \$100,000. That no lease from the governor of the Bahamas has ever been produced or shown to your memorialist, or his counsel or agents; but if any such exists, your memorialist believes it is invalid and inoperative, and is, moreover, of recent fabrication, to overreach, if possible, the just rights of your memorialist under said act of Congress. Your memorialist further sheweth that, in pursuance of the requirements of said act of Congress, he duly notified the State Department of the United States government of his claim and discovery in the premises and invoked the protection of his government at an early stage of said proceedings, and before any notice of any hostile or adversary claim or proceedings against his right to said island; that in making this claim and thus appealing to the executive government he was emboldened by the

precedent in the case of Navassa island, on which a deposit of guano was claimed by Captain Cooper, of Baltimore, under said act of Congress, and the President of the United States at once overruled the indignant protest of the insignificant republic of Hayti, near whose coast the Island of Navassa was situated, and sent a vessel-of-war to protect Captain Cooper, who has ever since enjoyed the benefit of said act of Congress and the protection of his government, but not so with your memorialist, whose claim has been objected to by the British minister; and with full testimony of all the foregoing facts before the President of the United States has, been repudiated, although your petitioner avers that the island of Key Verd is more remote from the British possessions than the Island of Navassa is from those of Hayti; and he confidently asserts that no other distinction can be established between the condemned title of Hayti to the Island of Navassa and the *respected* and *honored* claim of her Britannic Majesty to an island which is out of her maritime jurisdiction, as established by the decisions of her own admiralty courts, than the distinction between an inferior republic which is unable to assert her claims and a powerful monarchy with navies and armies at her command.

How far your memorialist is entitled to the same protection against the insolent pretensions of England, which has been conceded to one of his fellow-citizens as against Hayti, is now a question presented for the consideration of Congress, to whose justice and sense of *national* dignity this appeal is made.

Your memorialist claims that he is entitled to indemnity, not only for his property seized and confiscated under the alleged authority of the British government, but for the value of the guano on said island, of which he has been illegally deprived; and he founds his claim on the aforesaid act of Congress and the force of the precedent established by the executive department in the case of Navassa island, the papers and evidence in which your petitioner hopes will be sent for and examined by your honorable body, as well as the papers in evidence in your memorialist's case now on file in the State Department.

Your petitioner files herewith the particulars of his account of loss in the premises, and prays that he may have full relief and indemnity in the premises, and as in duty bound he will ever pray.

WM. T. KENDALL.

W. T. Kendall, the memorialist in the case of Key Verd island, herewith submits to the honorable Senate and House of Representatives the following bill of losses sustained, as set forth in the memorial annexed:

Cost of surveying the island.....	\$2,254 00
Implements seized by British authorities.....	1,200 00
Loss by chartering a vessel and not being able to load in consequence of above.....	2,150 00
Estimate—Ten thousand tons guano taken by said au- thorities.....	100,000 00
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	105,604 00
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*List of Accompanying Papers.*

1. Mr. Kendall to General Cass, May 24, 1859.
2. Mr. Appleton to Mr. Kendall, May 26, 1859.
3. Mr. Kendall to General Cass, June 29, 1859, (with an accompaniment.)
4. Mr. Appleton to Mr. Kendall, June 30, 1859.
5. Same to same, July 14, 1859.
6. Governor of Bahama Islands to Lord Lyons, July 1, 1859.
7. Lord Lyons to General Cass, July 11, 1859.
8. General Cass to Lord Lyons, July 14, 1859.
9. Mr. Kendall to General Cass, July 27, 1859.
10. Same to same, September 5, 1859.
11. Depositions, &c.
12. General Cass to Mr. Brent, March 12, 1860, (with an accompaniment.)
13. Same to same, March 19, 1860.
14. General Cass to United States consul at Nassau, February 9, 1860.
15. United States consul at Nassau to General Cass, April 30, 1860.

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DEPARTMENT OF STATE,  
Washington, June 6, 1860.

SIR: I have the honor to acknowledge the receipt of your communication of the 24th ultimo, transmitting the memorial of W. T. Kendall upon the subject of his claim to "Key Verd;" and in compliance with your request, a copy of all the papers in this department on that subject is herewith transmitted and the memorial returned.

I have the honor to be, sir, your obedient servant,

LEWIS CASS.

Hon. JAMES M. MASON,  
*Chairman of the Committee on Foreign Relations, Senate.*

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BALTIMORE, May 24, 1859.

SIR: In accordance with an act of Congress of 1856, concerning the discovery of guano islands out of the jurisdiction of other governments, I have to say, some months since I discovered a key lying in latitude  $22^{\circ} 2'$  north and longitude  $75^{\circ} 10'$  west from Greenwich, and lying 30 to 40 miles from any other land, island, or key. This island was discovered by one of my captains sent on a voyage for the discovery of guano, and brought to me several cargoes from that place. Again on the 31st March last I sent the brig called the Delta, commanded by Captain Richard Daulby, with orders to build a house or shanty



upon said island, and place there men for its protection, and holding possession, under the act of 1856, to take away guano.

Be pleased to inform me if my proceedings have been legal and in accordance with law, and much oblige your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS,  
*Secretary of State.*

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DEPARTMENT OF STATE,  
*Washington, May 26, 1859.*

SIR: The inclosed copy of a law of Congress upon the subject will inform you of the conditions under which protection is "to be given to citizens of the United States who may discover deposits of guano."

I am, &c.,

JOHN APPLETON,  
*Assistant Secretary.*

W. T. KENDALL, Esq.,  
*Baltimore.*

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BALTIMORE, *June 29, 1859.*

DEAR SIR: I wrote you some months since relative to taking peaceable possession of an uninhabited island or key containing guano. I now inclose you the following papers regularly authenticated before a notary public of this city.

My vessels are now engaged in bringing away guano from the island as described in the within document, and I also have men living upon the same until all the guano is removed. Should there be any further course for me to pursue, I would be pleased to hear from you at your earliest convenience.

Very respectfully, your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS.

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UNITED STATES OF AMERICA, STATE OF MARYLAND, } *to wit:*  
*City of Baltimore,*

I, William Gilmor, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known, that, on the day of the date hereof, before me personally appeared Richard Daulby, master mariner, and Charles C. Smith, mariner, and severally made oath on the holy Evangelists of Almighty God, that, in the month of November, 1858, the said Richard Daulby was master of the brig *Fidelia*, of Baltimore, and the said Charles C. Smith was chief officer of said brig; that while on

a voyage of discovery in said brig from Baltimore, State of Maryland, one of the United States of America, to the waters of the West India Islands, Caribbean sea, and waters adjacent thereto, in their several capacities as aforesaid, and also while acting as the agents of William T. Kendall, of Baltimore aforesaid, they discovered an uninhabited island or key, marked on the chart as "Key Verd," lying in latitude  $22^{\circ} 2'$  north, and longitude  $75^{\circ} 10'$  west, the said island or key having considerable quantities of guano thereon; that on the 12th of the said month of November they landed on said island or key, and after a thorough search and examination thereof they found no inhabitants whatever thereon, and being well satisfied that there was none, they immediately took peaceable possession of said island or key, and occupied the same in the name of the United States for the benefit of said William T. Kendall, for whom they were acting as agents as aforesaid, the said William T. Kendall being a citizen of the United States and a resident of the city of Baltimore, State of Maryland; that at the time of their taking possession and occupying the said island or key, named "Key Verd," the same was not in the possession or occupation of any other government, or of the citizens or subjects of any other government.

And the said Richard Dauby further made oath, that he afterwards returned to the United States, and was furnished at Baltimore, by the said William T. Kendall, with men, provisions, lumber for building purposes, and other articles for facilitating the shipment of the guano found on said island or key of "Key Verd" to the United States; that he proceeded therewith from Baltimore in the brig Delta, of Baltimore, in the capacity of master of said vessel, on the 31st of March last, bound directly for said island or key, and arrived there on the 12th of April following, and that immediately upon his arrival there he landed the said men, provisions, materials, &c., and thereby made a permanent location on said island or key of "Key Verd," for the sole benefit of said William T. Kendall.

Of which, an act having been of me requested, I have granted these presents to serve and avail as need and occasion may require.

RICHARD DAUBY,  
CHARLES C. SMITH.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal, and said deponents have also hereunto subscribed [SEAL.] their names this 21st day of June, in the year of our Lord 1859.

WM. GILMOR,  
*Notary Public.*

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DEPARTMENT OF STATE,  
*Washington, June 30, 1859.*

SIR: Your letter of the 29th instant, with the accompanying papers relative to a supposed discovery of guano on Key Verd, has been received.

In reply, I am directed to state that the President has heretofore deemed it his duty, in the exercise of the discretion conferred upon

him by the act of Congress of the 18th of August, 1856, to abstain from recognizing the privileges for which that act provides, unless he shall receive proof that the guano claimed to have been discovered is of a quality and in quantity such as would render it important in a national point of view.

I am, &c.,

JOHN APPLETON,  
*Assistant Secretary.*

W. T. KENDALL, Esq., *Baltimore.*

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DEPARTMENT OF STATE,  
*Washington, July 14, 1859.*

SIR: It is proper I should inform you that, since the letter of this department to you, of the 30th ultimo, relative to a supposed discovery of guano on Key Verd, official notice has been received from the British minister here that Key Verd is considered as belonging to the Bahama Islands; that, as such, it has been leased by the governor of those islands; and that the removal of guano therefrom by foreigners would be considered not only a trespass, but an aggression of a hostile character.

I am, &c.,

JOHN APPLETON,  
*Assistant Secretary.*

W. T. KENDALL, Esq., *Baltimore.*

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GOVERNMENT HOUSE, NASSAU, N. P.,  
*Bahamas, July 1, 1859.*

MY LORD: I have the honor to invite your excellency's attention to a subject which may materially affect the amicable relations of our colonists and certain ship-owners of the United States.

It was recently brought to my notice by Commander Vesey, of her Majesty's navy, that an American vessel had been seen taking guano from Key Verd, one of the most remote keys belonging to these islands.

Subsequent reports, made to me by persons of credit, convince me that similar depredations have been committed by American vessels on the other keys, to the great profit of their masters and the great detriment of our colonists.

I have the honor to inform your excellency that Key Verd and some other of these keys are leased, and that the abstraction of guano from them by foreigners is not only a trespass, but an aggression of a hostile character.

I would, therefore, solicit your excellency's intervention with the government of the United States, in order that it may be notified to the ship-owners, and generally to the mercantile community of America, that these keys belong to the Bahama government, are



many of them leased to private individuals, and that from none of them can guano be abstracted without permission of the local authorities.

At the same time I may mention that I should never object to letting certain keys to Americans on equitable terms.

I have, &c.,

C. V. BAYLEY, *Governor.*

Lord LYONS, &c., &c., &c.

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*Lord Lyons to Mr. Cass.*

WASHINGTON, *July 11, 1859.*

SIR: I have the honor to transmit to you a copy of a letter, in which the governor of the Bahama Islands complains of certain depredations, which appear to have been committed by United States merchant vessels upon keys belonging to those islands.

The governor requests me to call the attention of the government of the United States to this matter, in the hope that they will cause notice to be given to the ship-owners, and generally to the mercantile community of the Confederation, that these keys belong to the Bahama government, that many of them are leased to private individuals, and that from none of them can guano be extracted without the permission of the local authorities.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS,  
*Secretary of State, &c., &c., &c.*

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*Mr. Cass to Lord Lyons.*

DEPARTMENT OF STATE,  
*Washington, July 14, 1859.*

MY LORD: I have the honor to acknowledge the receipt of your lordship's communication of the 11th instant, relative to depredations which are alleged to have been committed by United States merchant vessels upon keys belonging to the Bahama Islands.

In reply, I have the honor to state, that the substance of your lordship's communication has been made known to W. P. Kendall, Esq., of Baltimore, who, under the supposition that he had made a discovery of guano on Key Verd, claims the privileges for which the act of Congress of the 18th of August, 1856, authorizing protection to be given to citizens of the United States who may discover deposits of guano, provides.

I have the honor to be, my lord, with high consideration, your lordship's obedient servant,

LEWIS CASS.

LORD LYONS, &c., &c., &c.

BALTIMORE, *July 27, 1859.*

SIR: In reply to a communication from your department, dated 14th July, 1859, I beg leave respectfully to protest against the claim of the British government to the "Key Verd," discovered and occupied by me under the inducements and guarantee held out to all American citizens by the act of Congress "approved August 18, 1856," and entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano."

I am informed that official notice has been received from the British minister here (in Washington) that Key Verd is considered as belonging to the Bahama Islands; that as such it had been leased by the governor of those islands, and that the removal of guano by foreigners "would be considered not [only] a trespass, but an aggression of a hostile character." Presuming that the government of the United States does not mean to surrender the rights of its citizens because the British government *considers* the Key Verd to belong to the Bahama Islands, I beg leave to insist upon the justice of my claim to all the guano on that island, and to claim the protection of my government under the terms and inducements of said act of Congress.

I am *prepared to prove* that Key Verd was, at the time of my discovery, a desert island or key, without the vestige of occupation or possession, and, in fact, wholly unfit for permanent occupation and possession. I am further prepared to show that it is no part of the coast of the British possessions or territory, but is without and beyond the lawful jurisdiction of the British government or any other government. I am further prepared to show, that acting under the authority and promised protection of the aforesaid act of Congress, I took peaceable possession of said key or island, and promptly notified your department of the same, and tendered myself ready in all things to comply with the requirements of law in the premises. I have continued, by my agents, to occupy and hold said island or key ever since, unless the rumors of forcible invasion of my said possession by persons acting under British authority, which I have recently heard, should prove to be true; in which event I appeal to my government to obtain for me full and adequate indemnity for any loss I may have sustained, or may sustain, by the interposition of such illegal claim on the part of the British authorities. I am almost daily expecting full and reliable statements from my agents recently sent out to Key Verd, which I will promptly submit to the Department of State so soon as I receive them.

In conclusion, will simply state, now, that I have done all in my power to secure my rights, but up to this time the President of the United States has not exercised the discretion intrusted to him, so that I could execute the bonds required by said act of Congress, and which I hereby tender myself ready to do, so soon as he shall decide the question submitted to him by my former communications, and apprise me what "penalties or securities he requires" in said bonds. I consider my agents to have been subject to the laws of the United States from the moment of their landing on said key or island, and therefore entitled, as well as myself, to a faithful and fearless execution by the

government of the guarantees and protection intended by said act of Congress.

I will be much obliged if you will promptly apprise the British minister of the fact, that I *positively* deny the claim of the British government to said key or island, and at the same time that you will consider this and all my antecedent communications as formally submitted to the President for his decision in my claim and title to the guano on Key Verd under the protection and conditions of the aforesaid act of Congress. I am prepared to show, at any moment, facts and authorities that Great Britain has no claim to *this* island or key.

I expect, within the next twenty days, at furthest, a return of my captain from Key Verd, when it will be in my power to submit a more detailed statement for the consideration of the President, which I hereby promise to do as soon as he returns, when I shall be able to satisfy him that the guano on said island or key, both in respect to quality and quantity, is of great national importance.

I remain, &c ,

W. T. KENDALL.

Hon. LEWIS CASS,  
*Secretary of State.*

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BALTIMORE, *September 5, 1859.*

DEAR SIR: On the 26th [27th] July last, I had the honor to address you a communication in which I promised to lay before the executive department further information relative to my claim to a guano island or key discovered by one of my captains for my benefit, and on my account.

I have now obtained that information in the most solemn form by depositions taken upon due notice to, and in the presence of the counsel [of] Theodore Farrington who claims this island as part of the territory of Great Britain. These depositions have just been taken by me in a cause pending on the admiralty side of the district court of the United States, wherein F. T. Montell as agent and consignee of said Farrington is libellant and I am claimant and respondent. I to-morrow mail to your address, or take in person on Wednesday morning, certified copies of said depositions, under the seal of said court, by which the following conclusions are clearly established.

1. That Key Verd, the island in question, was discovered by Captain Daulby while cruising in quest of guano islands, on my account.

2. That at the time of such discovery there was no occupation of said island, and no traces of such occupation at any time by any human being, and it was unfit for permanent occupation by reason of the want of water on it and the character of its formation and the want of a safe harbor.

3. That the deposits of guano were concealed by the growth of prickly pears, and these deposits were only found after removing the vegetable growth covering them.

4. That Key Verd, is out of the maritime jurisdiction of a government by reason of its distance from other land.

5. That finding this island in a state of nature and under the circumstances above stated, I caused the same to be taken possession of in the name of the United States and myself, and the American flag to be raised on a house which my agents had erected, and caused two cargoes of guano to be exported from said island, and brought to Baltimore.

6. That during my peaceable occupation of said island by my agents, the British war steamer *Styx*, while passing near the same, stopped her engines and fired a lee gun; but upon seeing the American flag raised on said island immediately proceeded on her voyage.

7. That during the absence of my vessel from said island on a voyage to Baltimore, and while I had a small force holding possession thereof, Theodore Farrington (an alien to the United States) proceeded to take forcible possession of the same, by landing from an armed vessel a superior force of armed men, sequestering to his own purposes all my stores, provisions, and utensils then on said island, and forcing my men, through starvation and threats of imprisonment, to go to work in getting out guano for his benefit.

8. That on the return of my vessel with Captain Daulby for another load of guano, the island being held by a superior force, under command of said Farrington, I was unable to obtain more guano, or, indeed, to recover my personal property on said island, or any compensation therefor; and Captain Daulby, not knowing what he should do under the circumstances, consented to accept the proposal of said Farrington to charter said vessel with guano to Baltimore on his account; and in so doing, the said Daulby acted in violation of my instructions as owner of the vessel; and the said Farrington had full and ample notice of the want of authority in said Daulby to charter said vessel for said purposes.

9. That on the arrival of said vessel in Baltimore I at once replevied the guano therein, both as against said Theodore Farrington and his consignee, F. T. Montell, by process issued from the superior court of Baltimore city; and thereupon the said Montell libeled the said vessel to recover the value of said guano; and I at once entered into the necessary stipulation, and interposed my claim.

10. That the guano deposited on said island is upwards of 10,000 tons, and so important, both in respect to quantity and quality, in a national point of view, as to cause the official interposition of the British minister at Washington, and, as I am informed, also a visit from the governor of the Bahama Islands, who is about to call on your excellency in Washington city. The value of this guano may be seen in the fact that it readily brings in this market over \$10 per ton, at which rate there must now be \$100,000 worth of guano on said island, and probably more.

11. That my actual loss in personal property, illegally seized by said Farrington and his men, and converted to their use, is over \$1,000, for which I have received no indemnity or satisfaction.

In conclusion, I claim from my government both protection in the assertion of my right of discovery to this guano deposit, and indemnity for all losses sustained by me through the intervention of English authorities.

I confidently believe that I am the true and only discoverer of the guano deposit on this remote, uninhabited, and derelict key or island, and, as such, I am entitled to all the benefit of the act of Congress encouraging American citizens to make discoveries of guano; and I claim that the President shall at once exercise his discretion, and decide in favor of my claim, and prescribe the bonds, which I am prepared to give under the law.

The only questions I submit to be investigated are these, viz:

1. Am I the discoverer of the guano deposited on this island?
2. Was the island unoccupied and derelict at the time?
3. Was it out of the maritime jurisdiction of any other government?

The first two questions are matters of fact, and their affirmation is abundantly established by the depositions referred to.

The last is a question of international law, based exclusively on the distance of said island from other land. In this connection, and to show the limited maritime jurisdiction of England, as expounded by her ablest judge, I refer to the case of "the Anna," in 5 Robinson's Admiralty Reports, 343. I also refer to Wheaton's Elements of International Law, page 211, to show that, in the case of Nootka Sound, England claimed her right to hold it because unoccupied, although Spain had the prior right by discovery.

Understanding that the United States has maintained the claim of Captain E. K. Cooper to the Island of Navasa, which is much nearer to the coast of Hayti than Key Verd is to any other land, I now call for as much protection against the powerful government of England as Captain Cooper has received from the President in the case of a weaker claim against the weaker government of Hayti, and I confidently rely on the justice and courage of my government for protection, indemnity, and redress in the premises.

Yours, very respectfully,

W. T. KENDALL.

Hon. LEWIS CASS,  
*Secretary of State.*

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*Agreement.*

As Mr. Brent suggests that he intends to procure from Captain Daulby a release to obviate the supposed objection to his competency as a witness, I agree that any release which he may produce shall be filed with the commissioner, and be returned with the testimony; and that the testimony of Captain Daulby already taken shall, at the trial, have the same effect as if retaken after such release had been filed.

WILLIAM SCHLEY,  
*Proctor for Libellant.*

FRANCIS D. FORNEY, Esq.,  
*Commissioner, &c.*



We agree that the testimony taken before Mr. Tormey, as commissioner, shall avail and have effect as if taken before a commissioner of the United States for the district of Maryland.

WILLIAM SCHLEY,  
*For Libelant.*

R. J. BRENT,  
*For Respondent.*

*Mr. Farrington's Letter.*

KEY VERD, June 9, 1859.

SIR: I hereby authorize you to continue to collect guano at this island, (for me only,) and, on the arrival of any person at this place, I hereby give notice that they shall not be permitted to remove any guano whatever without producing a certificate from me. You will therefore warn any person who may come here that if they do interfere in any way they will be proceeded against. You are not to allow anything whatever to be removed from the island, either guano or anything else, without first informing me.

Yours, truly,

THEO. FARRINGTON.

Mr. WILLIAM PRICE.

*Release.*

Know all men by these presents, that for divers good and valuable considerations me hereunto moving, I do hereby release, acquit, and discharge W. T. Kendall, Esq., of Baltimore city, of and from all and every liability, responsibility, or accountability to me, by reason of any and all agreements, contracts, or understandings heretofore at any time made between me and the said Kendall, touching or relating to any remuneration or compensation for discovering, as the agent of said Kendall, and for the benefit of said Kendall, an island or key called Key Verd, and the deposit of guano thereon, and especially from all and every liability, responsibility, and accountability to me by reason of or on account of the event of a libel suit now pending (in admiralty) in the district court of the United States for the district of Maryland, wherein F. T. Montell is libelant against the brig Delta, and the said Kendall is claimant and respondent.

Witness my hand and seal, this 30th day of August, A. D. 1859.

RICHARD DAULBY. [L. S.]

Witnessed by—

F. D. TORMEY.

FRANCIS T. MONTELL,	}	United States district court, Maryland district, in admiralty.
vs.		
BRIG DELTA.		

Depositions of witnesses taken before Francis D. Tormey, one of the commissioners of the superior court of Baltimore city, State of Mary-

land, at the times below stated, by the consent and in the presence of the proctors of the respective parties, they mutually waiving all objections to the manner and form of the taking of said testimony, agreeing that the same may be used in the above cause, and to avail and have the same effect as if taken before a regular commissioner of the said United States district court.

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SATURDAY, *August 27, 1859.*

Richard Daulby, a witness, aged thirty-nine years, produced, sworn, and examined on the part and behalf of claimant, William T. Kendall, deposes and says, as follows:

That on the first of last November he sailed in the brig *Fidelia*, as agent for William T. Kendall, from Baltimore, to see if he, witness, could not discover a place where he could get some guano. Witness left Baltimore with the intention of proceeding down to the Caribbean sea; on the evening of the 9th of November, witness sighted Crooked island, and proceeded that evening through the passage. At daylight the following morning, witness discovered a small key to leeward of the vessel, and bore down for the key, with the intention of anchoring and seeing whether there was any guano on the key, and whether the key was inhabited or not. The vessel came to anchor at nine o'clock, a. m. Witness and his mate proceeded ashore, and found there was a good deposit of guano there; the key was about two miles in circumference; the highest point was about seventy-two feet, and from that it gradually declined to the water's edge. It was rocky near the water's edge; it had been all rocks at one time. Went all over the key, and found no traces of any one having been on the key, or having inhabited it. There was no vegetation on the key, with the exception of prickly pears and a few mango trees; there was no water on it. Dug down to a level of the water—in some points sixteen feet, and could find no water. Witness had no previous knowledge of this island in any shape or form, except that he saw it laid down on the chart like the head of a pin, but could not tell from the chart what it was, but had to keep a look out for it, as it might have been a rock. Witness being asked whether he was induced to bear down on said island from the fact of its being on the chart, or by having seen it with his eyes, replies, because he saw it with his eyes, and it was on his way to the Caribbean sea.

Finding the island uninhabited, and no trace of anybody having been there, witness took his men and implements ashore for the purpose of digging guano, and continued digging and loading the vessel with guano until the morning of the 22d of the same month. Up to the morning of the 22d of November they obtained eighty tons of the guano, which was loaded on the brig *Fidelia*, when a gale arose on the morning of the 22d and the vessel parted her chains and went ashore—struck the reef and went down, and was totally lost. There is no anchorage on the island—just the same as on the open ocean. Witness and crew took the boats and went ashore, and remained ashore a day and two nights, and then got the boats ready and left the island in

the night time, steering by the stars to strike Ragged island. Not being able to make Ragged island, owing to a heavy sea, they were taken up on board of a vessel that they met and were carried to Havana, and from thence came to Baltimore. Witness then informed Mr. Kendall of the discovery of the island and the loss of the vessel and cargo, and that he had left all his utensils on the island.

Mr. Kendall then put witness in command of the schooner R. W. Troth, which left Baltimore on the 8th January, 1859, within eight days of witness reaching Baltimore from Havana, and again proceeded to the key with the intention of getting a cargo of guano. Arrived there on the 20th of January and found everything in the same state as when we left the island—the hut which witness had erected being undisturbed. Then proceeded to load the schooner with guano—with about 130 tons of guano; during which time witness saw none but his own party. During the time they were at the island they had to go out to sea nearly every day or two, owing to bad weather and want of a harbor. Witness sailed for Baltimore on the 25th of February, and arrived in Baltimore on the 11th of March and delivered the cargo to Mr. Kendall; witness having left on the island wheeling boards and some few small articles.

Mr. Kendall then put witness in command of the brig Delta, and his instructions were to proceed for another load of guano and to take charge of the island in the name of Mr. Kendall and the United States. Witness had no other instructions from Mr. Kendall, except to leave the crew and provisions on the island when he came away. Arrived out on the 13th of April, found no one there and everything as he had left. On landing, witness set some of the crew to work digging guano, and others to build a house to live in. After the house was finished, witness raised the American jack flag on the house and took possession in the name of Mr. Kendall and the United States—that is, witness called the boys all around and told them he took possession of the island in the name of Mr. Kendall and the United States. Witness then got 230 tons of guano, with which he loaded the vessel and delivered it safely on the 12th of June.

On leaving the island, witness left five men in the employ of Mr. Kendall, under the charge of William L. Price, to procure another load of guano by the time witness returned to the island. The American flag was flying on the island when witness left. Witness again left Baltimore on the 22d June for the island, in the brig Delta, on account of Mr. Kendall, with instructions from him to get another load of guano, and to leave four more men on the key, with provisions and water, to get out more guano.

Arrived on the island on the 16th July; came to anchor and saw the English flag flying at a staff on the top of a hill, and the American flag disappeared. Mr. Price and an Englishman by the name of John M. Gowen came aboard the brig Delta, and witness was then informed by Mr. Price that a party of men had come there on the 8th June, in an armed vessel, under the command of Theodore Farrington, and took possession of the key; and that they had threatened to take him and his men up and put them in prison at Nassau, if they did not go to work for him, Farrington.

Witness went ashore on Sunday morning, and told Mr. Price to take an inventory of all Mr. Kendall's property. Found two Englishmen in possession of the island, and in the course of the day a schooner arrived and brought twenty-two more men, who were landed on the island. Mr. Theodore Farrington, who came in the schooner, was introduced to witness by Mr. Price, and said to witness that he had been wishing to see him for some time. Witness then said to Farrington: "It seems you are going to turn us out of house and home, and I suppose you have authority for this?" and then asked him to show his authority; and he said he had authority, but would only show it in a court of law. Witness then asked him, "What is to be done with my things on the key; that I supposed I could take them?" and he said "No, that he would not allow me to take a single thing," and then proposed to charter me to take a load of guano home to Baltimore; and witness finally agreed to take a load of guano for him, at five dollars a ton freight. If witness had not so agreed, he would have been compelled to come home in ballast.

On the 17th July witness signed the charter-party, which he will produce as part of his evidence, and commenced taking in cargo on the 19th, and Mr. Farrington left on the 20th, leaving the island in charge of Mr. Gowen as his agent, under whose direction the witness was loaded with 250 tons of guano. Witness was not paid by Mr. Farrington, or any agent, for any stores, or provisions, or utensils which had been left on the island, and were taken by his men. Witness did sell him some articles of his own private property, to the amount of \$203, for which he received a draft from Farrington on Mr. Montell, and which was presented, on the arrival of the witness in Baltimore, and paid.

Witness, before leaving the key, went ashore and hoisted the American flag again, having pulled down the English flag and run up the American flag on their staff, and as long as witness was in sight the American flag was flying. Witness told Mr. Gowen that if they hauled down the American flag while he (witness) was in sight that he would shoot some of them. Witness then proceeded to Fortune island, where, by appointment, he met Mr. Farrington; and, on the 1st August, 1859, executed the bill of lading of that date, herewith produced, and which is marked A. [The bill of lading thus identified was produced by the proctor for the libellant to the witness, and made part of his proof, with the consent of the proctor for the claimant.] When witness left the island his crew and men amounted to fifteen, having brought all his men away except three, who voluntarily remained with Mr. Farrington. When witness left, Mr. Farrington had eleven men on the island, besides the three of witness's men who voluntarily remained; the residue of Farrington's men had gone off with him, after witness had signed the charter party of 18th July. Witness arrived in Baltimore on the 13th August instant, and reported himself to Mr. Montell, and offered to deliver the cargo that day; but he said that Monday, which was the 15th, would do. On Monday, the 15th, witness entered at the custom-house, and again notified Mr. Montell that he was ready to deliver the cargo; and on the same day, at four o'clock in the afternoon, the sheriff of Baltimore city came

with a writ of replevin, and replevied the guano. Witness states that he had omitted to mention that, on the first visit of the brig Delta to the island, while it was being loaded, the English war steamer Styx came along and stopped her engine, fired a lee gun, raised her flag, and witness then raised the American flag and dipped the flag to the Styx, who did the same and went away.

*Cross-examined.*—Witness saw the bill of lading marked A in possession of Francis T. Montell, the libellant, when witness reported to him the arrival of the cargo. Did not inform him at that time that there was any dispute about the cargo, and did not so inform him when witness presented him the draft, for payment, from Mr. Farrington. Witness knew nothing of the intention of Mr. Kendall to replevy the cargo until the sheriff came aboard; he had not seen Mr. Kendall prior to the sheriff's coming on board. Mr. Montell had procured a permit for landing the cargo, and had left it at Mr. Kendall's office for witness. Mr. Kendall was out of town when witness arrived, and did not return for four days. Witness began to unload the cargo for the first time on Tuesday last, the 22d instant. At the time the sheriff executed the replevin there was no delivery of the cargo from the vessel. Witness does not know to what group the island above referred to belongs; can't say whether or not it is one of the Bahama Islands, because on one side you can't touch bottom with a hundred fathom line. Witness knew from the chart that there was an island or rock there, but had never before actually seen it.

RICHARD DAULBY.

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MONDAY, August 29, 1859.

RICHARD DAULBY further examined on the part and behalf of the claimant:

Witness now produced the charter-party referred to by him in his preceding examination. (The said charter-party is hereto annexed, marked R. D., No. 1.) The body of said charter-party is in the handwriting of Theodore Farrington, and the signatures thereto, now subscribed by the respective parties, as they purport to be. As far as witness is able to estimate the quantity of guano on the island, he would estimate maximum quantity to be ten to twelve thousand tons. At the time witness last left the island there remained on it personal property of Mr. Kendall's amounting in value to about one thousand dollars, consisting of boards, wheelbarrows, picks, boats, anchors, sails, screens, and provisions, all of which were in the use and possession of the men employed by Theodore Farrington, and, in fact, they had no other utensils than such as belonged to Mr. Kendall.

*Cross-examined.*

The house of which witness spoke as having been put up on the island by him was a square house, 20 feet long and 10 feet broad, and 10 feet high; was made out of boards and rafters. The frame was



made of upright and cross pieces and then boarded and sail put over it. Mr. Montell, on Tuesday, 16th instant, produced the bill of lading to witness and demanded the delivery of the cargo, offering to pay the freight in gold or silver, and witness replied that the law had taken it out of his hands, and he could not give it to him; the guano at that time was actually on board the brig.

*Examined further in chief.*

The sheriff of Baltimore city came on board and replevied the guano before Mr. Montell demanded it of witness; witness was not present when the sheriff came with the replevin; the mate was on board; witness never saw the sheriff, nor received an order from him to deliver the guano to any one. When witness first visited the island it was impossible to tell whether guano was on it or not by merely looking at it, as the place where the guano was subsequently found was thickly covered with prickly pears. When witness went ashore he removed the prickly pears in places, looking for guano, and found a good deposit of guano.

RICHARD DAULBY.

William L. Price, a witness aged twenty-four years, produced, sworn, and examined on the part and behalf of claimant, W. T. Kendall, deposes and says as follows: Witness was born in Baltimore county, and resides there now. Witness left Baltimore city on the 31st last March in the brig Delta, Captain Daulby, master, with the intention of stopping on the island referred to in these proceedings, to collect all of the guano that might be on it. Witness went in the employ of Mr. William T. Kendall, who promised witness monthly wages, to be paid by him. Reached the island on the 13th April, and proceeded ashore, found the island unoccupied, saw the appearance of guano having been taken from the island, but could not estimate what quantity had been taken; there were no houses or sheds on the island at that time. On proceeding ashore, witness took possession of the island in the name of William T. Kendall and the United States, built a house on the island, and raised the American flag; could see no land from the highest point of the island in any direction with the naked eye; the highest point of the island is about seventy-six feet. Ragged island is the nearest land to it; it is thirty-two miles distant from it. Witness has seen Ragged island, which has a few houses like fishing huts on it; cannot say how large Ragged island is. Witness then proceeded to dig guano and load the brig. When the brig was loaded she left, and witness remained in charge of the island with five men, having stores and utensils necessary for their business. Witness saw the English war steamer Styx come to the island while the brig Delta was there, and, having stopped her machinery, fired a lee gun, and the American flag was then raised on the Delta and on the island, and the Styx then continued on her way to the southward, having exchanged salutes with the American flag before she left. The Delta left the island on the 19th of May, and witness continued on collect-

ing guano up to the 8th of June, having got out over a hundred and eighty tons, which was lying out on the beach ready for shipping.

On the evening of the 8th June, an armed schooner arrived at the island, having on board two large swivels; and two officers, with sixteen men, landed on the shore, who were all armed with pistols, and asked witness in what way he was on the island, and how he came there; and witness told them that he was there in the employ of William T. Kendall; and Mr. Theodore Farrington told witness that he had better get ready and go with him and his men; and he then told witness that he (witness) was trespassing on his property; and witness replied that he did not know as he was; and he again said that witness had better leave and go with him; and witness replied that he would not go with him, nor would any of witness's men; and Farrington then left the island and went aboard the schooner.

On the morning of the 9th June, Farrington again came ashore, and told witness that witness should either go to work for him or he would take witness and imprison him, or leave him on the island to starve; and witness replied that it was a hard case that he should be imprisoned or left on the island to starve; and he replied that he could not help it, and that witness could do as he pleased, but that if witness did not go to work for him he would give witness a good deal of trouble; and witness then consented to go to work for him, on the condition that he would let witness go when he (witness) should get a chance. He then gave witness a paper, forewarning witness from letting any person whatever take anything from the island. [The paper here referred to, witness will produce.] Farrington then left the island and went on board, with the intention of going to Fortune island and returning with men and provisions in eight or ten days. He did not arrive until the 24th June on the island, when his agent, Mr. Gowen, came on shore and told witness that he had a supply of water, but very few provisions, and that they came with the intention of going to work. They then built a house and went on to work in collecting guano until the 28th June, at which time witness's men quit work, and Gowen told them, as before, that if they did not work for him he would starve them. Witness's men did not go to work for five days, but were then compelled to do so by hunger, and continued to work until the arrival of Farrington's schooner again, which was on the 16th July, and Farrington came on shore and said he had a supply of provisions and more men; and witness then told him that the brig Delta had now arrived, and that he (witness) wanted to be sent home; and Farrington replied that that depended upon his own pleasure, whether he would keep witness there or send him home; and witness then explained to him the necessity of his returning home; he then consented, and witness accordingly returned in the Delta. Farrington told witness that he ought not to let witness go home until the case was settled, as he knew there would be trouble as soon as the vessel got home. The brig Delta was loaded by Farrington and his agents with guano, including the hundred and eighty tons that witness had got out before Farrington and his men arrived. Farrington and his men took and used witness's stores and provisions and working utensils, and never returned them; the value of which

amounted, as near as witness can estimate, to a thousand or twelve hundred dollars. Witness was present when Captain Daulby requested Farrington to produce his authority, and he refused, saying he would not produce it, unless in a court of law. After Farrington left in his schooner, witness saw Captain Daulby take down the English flag and put up the American, which remained flying as long as the Delta was in sight.

*Cross-examined.*—Witness was paid for the time that he worked for Farrington, and so were the two men that returned home with witness; the other three voluntarily remained on the island.

WILLIAM L. PRICE.

RICHARD DAULBY, reexamined in chief:

Thinks the island is about ninety miles from Cuba. There is a small key, called Muraposes, about twenty miles distant from the island, but there are no inhabitants on it, as it is a barren rock over which the sea washes. No land is visible from Key Verd, and Ragged island is thirty-two miles distant, and Fortune island is forty-five miles distant.

*Cross-examined.*—Witness has no interest in the brig Delta. Witness has no interest in the guano except that by agreement verbally between Mr. Kendall and witness, witness was to receive fifty cents on every ton of guano that witness discovered. This contract would extend to all the guano on the island, as long as witness worked it, and witness would have continued working it if Mr. Farrington had not taken possession. Mr. Kendall was never out to the island. There is no written contract between witness and Mr. Kendall for the transfer, by witness to him, of witness's interest as the discoverer of that island. No other contract has been made between Mr. Kendall and witness, except the contract for fifty cents, as aforesaid, and that contract was made before witness went out and before witness discovered the island.

RICHARD DAULBY.

Mr. Schley here addresses and hands to the commissioner his assent in writing, (which is hereto annexed,) by which he agrees that the testimony of the witness, Richard Daulby, shall have the same effect as if taken after the filing of a release by said witness to obviate the supposed objection to his competency, upon Mr. Brent having signified his intention to file such release and to reexamine said witness after the execution of said release. And the counsel of the respective parties then also reduced to writing their agreement (which is hereto annexed) for the taking of the foregoing testimony before Francis D. Tormey, as commissioner.

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TUESDAY, August 30, 1859.

The witness, William L. Price, now produces to and files with the commissioner the paper referred to in his deposition on the 29th instant, (which is hereto annexed,) marked "Key Verd."

Richard Daulby here files with the commissioner a release to W. T. Kendell, which is hereto annexed.

No other witnesses being named or produced to me, the taking of further testimony before me was closed.

In witness whereof, I hereto set my hand and seal, this 30th day of August, A. D. 1859, at the city of Baltimore, in the State of Maryland.

FRANCIS D. TORMEY, [SEAL.]  
*Commissioner.*

In testimony that the foregoing is a true copy of the originals on file among the records and proceedings of the district court aforesaid, I hereunto subscribe my name and affix the seal of the said district court, this 5th day of September, in the year of our Lord 1859.

THOS. SPICER, [SEAL.]  
*Clerk District Court.*

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DEPARTMENT OF STATE,  
*Washington, March 12, 1860.*

SIR: I transmit, herewith, for your information and that of Mr. W. T. Kendall, whose claim as the alleged discoverer of guano on Key Verd you have presented to the department, a copy of an opinion of the Attorney General, dated December 14, 1859, to whom the papers were referred, and which, as I have just learned, was inadvertently omitted to be sent to you.

I am, &c.,

LEWIS CASS.

R. J. BRENT, Esq.,  
*Baltimore, Maryland.*

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ATTORNEY GENERAL'S OFFICE,  
*December 14, 1859.*

SIR: The papers sent me by you show that W. I. [T.] Kendall, of Baltimore, has petitioned to be protected in the possession of a guano island in the Caribbean sea, called Key Verd. It also appears that Key Verd is regarded by the British government as under the dominion of that power and belonging to the Bahamas; Lord Lyons having given notice that the removal of guano therefrom by an American would be considered not only a trespass but a hostile aggression.

Before a citizen of the United States can be entitled to the benefit of the act of 1858, [6,] it must appear that the island, rock, or key, upon which he has discovered guano, was not at the time of its discovery within the lawful jurisdiction of any other government. In the present case, Key Verd is distinctly asserted by the British government to be

within its jurisdiction. The President has no right under the law to annex the island to the United States, or to put any American citizen in possession of it, until the diplomatic question raised by the British minister shall be finally settled, and not then, unless it be settled in our favor.

I am, very respectfully, yours, &c.,

J. S. BLACK.

Hon. LEWIS CASS,  
*Secretary of State.*

DEPARTMENT OF STATE,  
*Washington, March 19, 1860.*

SIR: I have the honor to inform you that in the case of the application of Mr. W. T. Kendall, of Baltimore, to be protected in the possession of a guano island in the Caribbean sea, called Key Verd, the President does not feel authorized, under the circumstances, to take any measure by which the said island would be considered as appertaining to the United States.

I am, &c.,

LEWIS CASS.

ROBERT J. BRENT, Esq.,  
*Baltimore.*

DEPARTMENT OF STATE,  
*Washington, February 9, 1860.*

SIR: You are probably aware that, in the winter and spring of 1858-59, a quantity of guano was taken from the Key Verd by American vessels, and that a claim under the provisions of the act of August 18, 1856, has been made to the possession of the island by citizens of the United States.

The claim is resisted by the British government on the ground that the Key Verd belongs to the Bahama group.

You are requested to furnish this department with such information as may be in your possession, or which you may be able to procure, respecting any acts of jurisdiction which may have been exercised over this island by the British authorities previous to the visit of Captain Daulby to the island, in November, 1858; also, if the deposit of guano on the island was known to the inhabitants of the Bahamas prior to the above-mentioned date; also any other information tending to show the validity of the claim set up by the British authorities.

I am, &c.,

JOHN APPLETON,  
*Assistant Secretary.*

I. J. MERRITT, Esq.,  
*U. S. Consul, New Providence, Nassau, Bahamas.*



No. 13.]

UNITED STATES CONSULATE,  
*Nassau, N. P., Bahamas, April 30, 1860.*

SIR: On the 13th instant, in dispatch No. 9, I had the honor to acknowledge the receipt of a dispatch from the Department of State, dated February 9, desiring information respecting the claim of the British government to Key Verd; and I now take the earliest opportunity to furnish the little information I can readily procure.

That the island in question, for there are two or more islands or keys bearing the name of Key Verd in this neighborhood, is one of the Bahama group of islands, I see no reason to doubt. Not only the minute and elaborate charts, compiled from careful surveys made by the order of the British government, but two older ones that have been three or four years in my possession, place Key Verd nearly in the latitude of  $22^{\circ}$  north, and longitude  $75^{\circ} 15'$  west, at the western entrance of the Crooked island passage, and on the edge of the Bahama bank.

Several credible persons have stated to me that the deposit of guano on this island was known to inhabitants of the Bahamas prior to Captain Daulby's visit, in November, 1858; but I think that they have, unintentionally, confounded Key Verd with another small key in that neighborhood, from which specimens of guano were gathered about four years ago; by inhabitants of Ragged island, and forwarded to the United States for examination. With no other means of ascertaining if any acts of jurisdiction had been exercised over this island by British authority before the visit of Captain Daulby, I applied to the colonial government for information; but this government refused to furnish it at this time, for the reason that the whole subject is believed to be at present the subject of negotiation between the government of Great Britain and the United States.

I have, &c.,

I. J. MERRILL,  
*United States Consul.*

Hon. LEWIS CASS,  
*Secretary of State, Washington.*